

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Town of Cave Creek)	Call Sign WRAG519
)	
Request for Waiver of Section 1.946 of the)	
Commission's Rules)	

ORDER

Adopted: November 4, 2019**Released: November 4, 2019**

By the Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau:

1. On June 12, 2019, the Public Safety and Homeland Security Bureau (Bureau) notified the Town of Cave Creek (Cave Creek) that it had placed station WRAG519 on Termination Pending status because Cave Creek failed to meet the construction and construction notification requirements of the Commission's rules.¹ On July 30, 2019, Cave Creek filed a Petition for Reconsideration of the notice of termination of its license.² We dismiss the Petition as untimely.

2. Section 1.106(f) of the Commission's rules requires that a petition for reconsideration "shall be filed within 30 days from the date of public notice of the final Commission action..."³ Thus, July 12, 2019 was the filing deadline for Cave Creek to file a reconsideration petition. However, Cave Creek did not file its Petition until July 30, 2019. Because the Petition does not meet the requirements of Section 1.106(f), we must dismiss it as untimely.⁴

3. If Cave Creek desires to continue operating under the parameters formerly set forth under call sign WRAG519, it must file a new, properly coordinated application. In addition, if Cave Creek needs to operate while the application is pending with the Commission, it must immediately file a request for special temporary authority in accordance with Section 1.931 of the Commission's rules.⁵

4. Accordingly, IT IS ORDERED, pursuant to the authority of Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 303(r), Section 1.106 of the Commission's Rules, 47 CFR §1.106, and Section 405(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 405(a), that the Petition for Reconsideration filed by the Town of Cave Creek on July 30, 2019, IS DISMISSED.

¹ See Auto Termination Letter, Reference Number: 6502108 (dated Jun. 12, 2019) (Auto Termination Letter). As a condition of its authorization, the Commission's rules required the County to construct its station, Call Sign WRAG519, by May 9, 2019. 47 CFR § 1.946.

² Petition for Reconsideration filed July 30, 2019 by the Town of Cave Creek, Arizona.

³ 47 CFR §106(f).

⁴ 47 CFR § 1.106(f) is based on Section 405(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 405(a). Other than in circumstances not present here, this statutory requirement cannot be waived. See *Reuters Ltd. v. FCC*, 781 F2d 946, 951-952 (D.C.Cir.1986).

⁵ See 47 CFR § 1.931.

5. This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's Rules, 47 CFR §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

Michael J. Wilhelm
Chief, Policy and Licensing Division
Public Safety and Homeland Security Bureau